

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 591**

---

**Introduced by Assembly Member Wieckowski  
(Principal coauthor: Assembly Member Dickinson)**

February 16, 2011

---

An act to amend Sections ~~3106, 3107, and 3270~~ *3107 and 3203* of the Public Resources Code, relating to oil and gas production.

LEGISLATIVE COUNSEL'S DIGEST

AB 591, as amended, Wieckowski. Oil and gas production: hydraulic fracturing.

~~Under~~

*(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires the district deputy to prepare maps regarding oil and gas production in each district and to collect information regarding the presence of oil and gas and the location and extent of strata bearing water or surface water suitable for irrigation or domestic purposes.*

~~Existing law also requires the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners and operators of the wells to utilize all methods and practice known to the industry for the purpose of increasing the ultimate recovery~~

of underground hydrocarbons. It is the policy of the state generally to allow an operator in producing and removing hydrocarbons to perform certain procedures, as the injection of air, gas, water, or other fluids, or the application of pressure heat.

This bill would include in that policy the process of hydraulic fracturing. The bill also would *instead* require the district deputy for oil and gas production in each district of the state to show on maps through a special designation each well where hydraulic fracturing is being used, including in restimulation of a well. The bill would require the division, by regulation, in prescribing minimum facility maintenance standards for production facilities to compile a list of any chemicals or components used in the process of hydraulic fracturing. *to collect information on the presence of oil and gas deposits and the location and extent of strata bearing water or surface water suitable for irrigation, domestic, industrial, or wildlife purposes that might be affected. The bill would also require the maps prepared by the district deputy to be posted, as specified, on the division's Internet Web site.*

(2) Existing law requires the operator of a well, before commencing the work of drilling the well, to file with the supervisor or the district deputy a written notice of intention to commence drilling, and prohibits the commencement of drilling until approval is given by the supervisor or the district deputy. The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified.

This bill would revise that procedure to instead require the operator to file an application before commencing drilling and would require additional information to be included in the application, including information regarding the chemicals, if any, to be injected into the well. The bill would require the supervisor to post the information regarding the type of process and list of chemicals on the division's Internet Web site. The bill would require the operator to notify every property owner and occupant of property within one mile of a well if the application includes a chemical known to cause cancer or reproductive toxicity pursuant to the list adopted in accordance with the Safe Drinking Water and Toxic Enforcement Act of 1986.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) *Hydraulic fracturing is a technique used in the production*  
4 *of oil and gas that involves the pressurized injection of water and*  
5 *a mix of chemical into an underground geologic formation in order*  
6 *to fracture the formation, thereby causing or enhancing the*  
7 *production of oil or gas from a well.*

8     (b) *Hydraulic fracturing has been used in California for several*  
9 *decades to extract oil and gas and is likely to be used more*  
10 *extensively as the industry seeks to develop additional oil and gas*  
11 *bearing formations.*

12     (c) *The Division of Oil, Gas, and Geothermal Resources in the*  
13 *Department of Conservation, which has the obligation to protect*  
14 *public health and the resources of the state, including groundwater*  
15 *resources, has the authority to regulate all oil and natural gas*  
16 *drilling in the state, but currently does not require the disclosure*  
17 *of pertinent information regarding hydraulic fracturing or*  
18 *ascertain what specific types of production and exploration are*  
19 *taking place at permitted wells.*

20     (d) *Given California's geologic, seismic complexity, and finite*  
21 *and significantly compromised water resources, it is important to*  
22 *collect basic information about natural resource production*  
23 *processes. The state and the public should know when and where*  
24 *hydraulic fracturing is occurring and what chemicals are being*  
25 *used in the process.*

26     ~~(a) Hydraulic fracturing is a technique used in the production~~  
27 ~~of oil and gas that involves the injection under great pressure of~~  
28 ~~water, a proppant, such as sand or ceramic beads, and a small mix~~  
29 ~~of chemicals into an underground geologic formation in order to~~  
30 ~~fracture the formation, thereby causing the flow of oil or gas to~~  
31 ~~the surface.~~

32     ~~(b) Although hydraulic fracturing is not as widely used in~~  
33 ~~California as in some parts of the country, it has been used in~~  
34 ~~California to extract oil and gas and has the potential to be used~~  
35 ~~more extensively.~~

1     ~~(e) The chemicals used in the practice of hydraulic fracturing~~  
2     ~~have the potential to migrate into nearby strata and aquifers.~~

3     ~~(d) The Division of Oil, Gas, and Geothermal Resources in the~~  
4     ~~Department of Conservation, which has the obligation to protect~~  
5     ~~public health and the resources of the state, including groundwater~~  
6     ~~resources, has the authority to regulate all oil and gas drilling in~~  
7     ~~the state, but has not been regulating hydraulic fracturing,~~  
8     ~~apparently due to the lack of the adoption of specific regulations.~~

9     ~~(e) The state and public should know where hydraulic fracturing~~  
10    ~~is occurring and what chemicals are being used in the process.~~

11    ~~SEC. 2. Section 3106 of the Public Resources Code is amended~~  
12    ~~to read:~~

13    ~~3106. (a) The supervisor shall supervise the drilling, operation,~~  
14    ~~maintenance, and abandonment of wells and the operation,~~  
15    ~~maintenance, and removal or abandonment of tanks and facilities~~  
16    ~~attendant to oil and gas production, including pipelines not subject~~  
17    ~~to regulation pursuant to Chapter 5.5 (commencing with Section~~  
18    ~~51010) of Part 1 of Division 1 of Title 5 of the Government Code~~  
19    ~~that are within an oil and gas field, in order to prevent, as far as~~  
20    ~~possible, damage to life, health, property, and natural resources;~~  
21    ~~damage to underground oil and gas deposits from infiltrating water~~  
22    ~~and other causes; loss of oil, gas, or reservoir energy; and damage~~  
23    ~~to underground and surface waters suitable for irrigation or~~  
24    ~~domestic purposes by the infiltration of, or the addition of,~~  
25    ~~detrimental substances.~~

26    ~~(b) The supervisor shall also supervise the drilling, operation,~~  
27    ~~maintenance, and abandonment of wells in order to permit an~~  
28    ~~owner or operator of a well to utilize all methods and practices~~  
29    ~~known to the oil industry for the purpose of increasing the ultimate~~  
30    ~~recovery of underground hydrocarbons and which, in the opinion~~  
31    ~~of the supervisor, are suitable for this purpose in each proposed~~  
32    ~~case. To further the elimination of waste by increasing the recovery~~  
33    ~~of underground hydrocarbons, it is hereby declared as a policy of~~  
34    ~~this state that the grant in an oil and gas lease or contract to a lessee~~  
35    ~~or operator of the right or power, in substance, to explore for and~~  
36    ~~remove all hydrocarbons from any lands in the state, in the absence~~  
37    ~~of an express provision to the contrary contained in the lease or~~  
38    ~~contract, is deemed to allow the lessee or contractor, or the lessee's~~  
39    ~~or contractor's successors or assigns, to do what a prudent operator~~  
40    ~~using reasonable diligence would do, having in mind the best~~

1 interests of the lessor, lessee, and the state in producing and  
2 removing hydrocarbons, including, but not limited to, the injection  
3 of air, gas, water, or other fluids into the productive strata, the  
4 application of pressure heat or other means for the reduction of  
5 viscosity of the hydrocarbons, the process of hydraulic fracturing,  
6 the supplying of additional motive force, or the creating of enlarged  
7 or new channels for the underground movement of hydrocarbons  
8 into production wells, when these methods or processes employed  
9 have been approved by the supervisor, except that nothing  
10 contained in this section imposes a legal duty upon the lessee or  
11 contractor, or the lessee's or contractor's successors or assigns, to  
12 conduct these operations.

13 (e) The supervisor may require an operator to implement a  
14 monitoring program, designed to detect releases to the soil and  
15 water, including both groundwater and surface water, for  
16 aboveground oil production tanks and facilities.

17 (d) To best meet oil and gas needs in this state, the supervisor  
18 shall administer this division so as to encourage the wise  
19 development of oil and gas resources.

20 SEC. 3.

21 SEC. 2. Section 3107 of the Public Resources Code is amended  
22 to read:

23 3107. (a) A district deputy in each district, designated by the  
24 supervisor, shall collect all necessary information regarding the  
25 oil and gas wells in the district, with a view to determining the  
26 presence of oil and gas sands and the location and extent of strata  
27 bearing water suitable for irrigation or domestic purposes that  
28 might be affected. *presence of oil and gas deposits and the location*  
29 *and extent of strata bearing water or surface water suitable for*  
30 *irrigation, domestic, industrial, or wildlife purposes that might be*  
31 *affected.*

32 (b) The district deputy shall prepare maps and other accessories  
33 necessary to determine the presence of oil and gas sands and the  
34 location and extent of strata bearing water suitable for irrigation  
35 or domestic purposes or surface water suitable for those purposes.  
36 Each well where hydraulic fracturing is being used, including in  
37 restimulation of a well, shall be shown on these maps through a  
38 special designation. *deposits and the location and extent of strata*  
39 *bearing water or surface water suitable for irrigation, domestic,*  
40 *industrial, or wildlife purposes. The maps prepared by the district*

1 *deputy pursuant to this section shall be posted on the division's*  
2 *Internet Web site, as a modification to any existing maps, and shall*  
3 *include the information obtained pursuant to paragraph (2) of*  
4 *subdivision (c) of Section 3203.*

5 (c) This work shall be done with the view to advising an operator  
6 as to the best means of protecting the oil and gas sands and the  
7 water-bearing strata and surface water, and with a view to aiding  
8 the supervisor in ordering tests or repair work at wells. All data  
9 shall be kept on file in the office of the district ~~deputy of the~~  
10 ~~respective district and in the supervisor's office, and shall be made~~  
11 ~~available to any member of the public who requests to view it.~~  
12 *deputy of the respective district.*

13 SEC. 4. ~~Section 3270 of the Public Resources Code is amended~~  
14 ~~to read:~~

15 3270. (a) ~~The division shall, by regulation, prescribe minimum~~  
16 ~~facility maintenance standards for all production facilities in the~~  
17 ~~state. The regulations shall include, but are not limited to, standards~~  
18 ~~for all of the following:~~

19 (1) ~~Leak detection.~~

20 (2) ~~Corrosion prevention and testing.~~

21 (3) ~~Tank inspection and cleaning.~~

22 (4) ~~Valve and gauge maintenance, and secondary containment~~  
23 ~~maintenance.~~

24 (5) ~~Other facility or equipment maintenance that the supervisor~~  
25 ~~deems important for the proper operation of production facilities~~  
26 ~~and that the supervisor determines are necessary to prevent damage~~  
27 ~~to life, health, property, and natural resources; damage to~~  
28 ~~underground oil and gas deposits from infiltrating water and other~~  
29 ~~causes; loss of oil, gas, or reservoir energy; and damage to~~  
30 ~~underground and surface waters suitable for irrigation or domestic~~  
31 ~~purposes by the infiltration of, or the addition of, detrimental~~  
32 ~~substances.~~

33 (6) ~~A complete list of any chemicals or components used in the~~  
34 ~~process of hydraulic fracturing.~~

35 (b) ~~An operator who constructs, acquires, maintains, or alters~~  
36 ~~an oil well or a production facility shall comply with the standards~~  
37 ~~prescribed pursuant to subdivision (a).~~

38 (c) ~~In a form and at a time prescribed by the division in~~  
39 ~~regulation, an operator shall notify the supervisor of the~~

1 construction, alteration, or decommissioning of a production  
2 facility:

3 (d) ~~An operator shall maintain at the production facility's local~~  
4 ~~office records of maintenance and repair operations, tests, and~~  
5 ~~inspections, and shall provide the supervisor with access to these~~  
6 ~~records at all times during normal business hours and with copies~~  
7 ~~of the records immediately, upon request.~~

8 *SEC. 3. Section 3203 of the Public Resources Code is amended*  
9 *to read:*

10 3203. (a) The operator of ~~any~~ a well, before commencing the  
11 work of drilling the well, shall file with the supervisor or the district  
12 ~~deputy a written notice of intention~~ *an application* to commence  
13 drilling. Drilling shall not commence until approval *of the*  
14 *application* is given by the supervisor or the district deputy. If the  
15 supervisor or the district deputy fails to give the operator *a* written  
16 response to the ~~notice~~ *application* within 10 working days from  
17 the date of receipt, that failure shall be considered as an approval  
18 of the ~~notice and the notice application, and the application,~~ for  
19 the purposes and intents of this chapter, shall be deemed a written  
20 report of the supervisor. If operations have not commenced within  
21 one year of receipt of the ~~notice application, the notice application~~  
22 shall be deemed canceled. The ~~notice application~~ shall contain the  
23 pertinent data the supervisor requires on printed forms supplied  
24 by the division or on other forms acceptable to the supervisor. The  
25 supervisor may require other pertinent information to supplement  
26 the ~~notice application.~~

27 (b) (1) *On and after January 1, 2012, in addition to the*  
28 *pertinent information required to be collected pursuant to*  
29 *subdivision (a), the application shall include all of the following*  
30 *information:*

31 (A) *The type of exploration and production techniques that the*  
32 *operator will use at the well or wells.*

33 (B) *A complete list of the chemicals, if any, that will be injected*  
34 *into the well for hydraulic fracturing or other production*  
35 *enhancement methods in the exploration or production process or*  
36 *processes. This list shall include all of the following:*

37 (i) *The name of the chemical.*

38 (ii) *The purpose of the chemical in the production or exploration*  
39 *process.*

40 (iii) *The Chemical Abstract Service numbers for the chemical.*

1     (iv) *The estimated total amount of the chemical used.*

2     (v) *The actual rate or concentration of the chemical expressed*  
3 *as pounds per thousand gallons or gallons per thousand gallons*  
4 *and expressed as a percentage by volume of the total hydraulic*  
5 *fracturing fluid or other injected fluid used.*

6     (C) *The estimated amount and source of water that will be used*  
7 *in the exploration or production from the well that is being*  
8 *proposed to be permitted.*

9     (D) *Any radiological components or tracers to be injected into*  
10 *the well and a description of the recovery method, if any, for those*  
11 *elements or tracers, the expected recovery rate and disposal*  
12 *method for recovered components or tracers.*

13     (E) *The location of any known seismic faults within five miles*  
14 *of the well.*

15     (2) *The supervisor shall post the type of process and list of*  
16 *chemicals obtained pursuant to paragraph (1) on the division's*  
17 *Internet Web site in such a way that it is accessible to the public.*

18     (3) *If any of the information required pursuant to paragraph*  
19 *(1) changes over the course of the exploration and production*  
20 *process, the operator shall immediately notify the supervisor.*

21     (4) *Notwithstanding any other law, if a chemical listed in the*  
22 *application pursuant to subparagraph (B) of paragraph (1) is also*  
23 *listed as a chemical known to cause cancer or reproductive toxicity*  
24 *pursuant to the list adopted in accordance with Section 25249.8*  
25 *of the Health and Safety Code, the operator shall notify every*  
26 *property owner and occupant of property within one mile of the*  
27 *well that this chemical is to be injected into the ground.*

28     ~~(b)~~

29     (c) *After the completion of any well, this section also applies*  
30 *as far as may be, to the deepening or redrilling of the well, ~~any~~ an*  
31 *operation involving the plugging of the well, or any operations*  
32 *permanently altering in any manner the casing of the well. The*  
33 *number or designation of ~~any~~ a well, and the number or designation*  
34 *specified for ~~any~~ a well in a ~~notice~~ an application filed as required*  
35 *by this section, shall not be changed without first obtaining a*  
36 *written consent of the supervisor.*

37     ~~(e)~~

38     (d) *If an operator ~~has failed~~ fails to comply with an order of the*  
39 *supervisor, the supervisor may deny approval of proposed well*  
40 *operations until the operator brings its existing well operations*



1 into compliance with the order. If an operator~~has failed~~ *fails* to  
2 pay a civil penalty, remedy a violation that it is required to remedy  
3 to the satisfaction of the supervisor pursuant to an order issued  
4 under Section 3236.5, or to pay any charges assessed under Article  
5 7 (commencing with Section 3400), the supervisor may deny  
6 approval to the operator's proposed well operations until the  
7 operator pays the civil penalty, remedies the violation to the  
8 satisfaction of the supervisor, or pays the charges assessed under  
9 Article 7 (commencing with Section 3400).

O